UNITED NATIONS

A

General Assembly

Distr.
GENERAL

A/46/473
24 September 1991

ORIGINAL: ENGLISH

Forty-sixth session
Agenda item 98 (a)

HUMAN RIGHTS QUESTIONS: IMPLEMENTATION OF HUMAN RIGHTS INSTRUMENTS

Torture and inhuman treatment of children in detention in South Africa

Report by the Secretary-General

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I. INTRODUCTION

1. By its resolution 5 (XXXVII) of 23 February 1981, the Commission on Human Rights requested the Ad Hoc Working Group of Experts on Southern Africa, in cooperation with the Special Committee against Apartheid, to study the effects of the policy of apartheid on Black women and children in South Africa, in conformity with General Assembly resolution 35/206 N of 16 December 1980. Consequently, a mission of enquiry was held in London from 29 June to 3 July 1981, and the Ad Hoc Working Group prepared a report which dealt, inter alia, with the question of children in prison as well as the treatment of children involved in political trials (E/CN.4/1497, paras. 89-106).

2. In subsequent reports, the Working Group continued to concern itself with this question and examined the prevalent conditions in prison as they affected children and especially the treatment of children in prison (see E/CN.4/1986/9, paras. 55-60; E/CN.4/AC.22/1987/1, paras. 80-94; E/CN.4/1988/8, paras. 68-91; E/CN.4/1989/8, paras. 229-244; E/CN.4/1990/7, paras. 202-229; and E/CN.4/1991/10, paras. 214-226).

3. On 14 December 1990, the General Assembly adopted resolution 45/144, entitled "Torture and inhuman treatment of children in detention in South Africa", in which it, inter alia, reiterated its demand for the immediate and unconditional release of all children held in detention in South Africa; reiterated its appeal to all relevant United Nations bodies, specialized agencies and non-governmental organizations to intensify the world-wide campaign aimed at drawing attention to, monitoring and exposing these inhuman practices; requested the Commission on Human Rights to continue to pay special attention to the question of detention, torture and other inhuman treatment of children in South Africa; requested the Secretary-General to submit a report to the General Assembly at its forty-sixth session on the implementation of the resolution; and decided to consider the question at its forty-sixth session.

4. By its resolution 1991/8 of 22 February 1991, the Commission on Human Rights, inter alia, reiterated its vigorous condemnation of the detention, torture and inhuman treatment of children in South Africa; demanded that South Africa lift forthwith the restrictions imposed on children, particularly those released from detention, and ensure their basic and legitimate freedoms of movement, association and education; also demanded the immediate and unconditional release of all children still held in detention; further demanded the immediate, total and effective implementation of the political measures announced in the policy pronouncements of President de Klerk on 2 February 1990 and 1 February 1991; and appealed to the international community to maintain all forms of measures to bring pressure to bear upon the Government of South Africa in order to achieve a profound and irreversible change to eradicate the policy of apartheid and the inhuman practices associated with this policy. It further requested the Ad Hoc Working Group of Experts on Southern Africa to pay special attention to the question of detention, torture and other inhuman treatment of children in South Africa and report to the Commission on Human Rights at its forty-eighth session.

II. INFORMATION RECEIVED FROM UNITED NATIONS BODIES, SPECIALIZED AGENCIES AND NON-GOVERNMENTAL ORGANIZATIONS

5. In keeping with past practice, and in pursuance of paragraph 4 of General Assembly resolution 45/144 and paragraph 21 of Commission on Human Rights resolution 1991/21, information was requested from the United Nations Centre against Apartheid, the United Nations Children's Fund, the International Labour Organisation, the World Health Organization, and various intergovernmental organizations. Although interim replies have been received from a few of those bodies, detailed replies are still outstanding.

6. In the absence of authorization from the Government of South Africa to visit that country, the Ad Hoc Working Group of Experts on Southern Africa decided, in keeping with past practice, to meet in London from 22 to 26 July 1991, as well as at Geneva from 29 July to 2 August 1991, to conduct hearings and to prepare its preliminary report to the General Assembly. During its meetings, on which the Ad Hoc Working Group will report in full to the Commission on Human Rights at its forty-eighth session, the Ad Hoc Working Group heard a total of 11 witnesses in London and two at Geneva.

7. During these meetings, no information was received by the Ad Hoc Working Group regarding torture and ill-treatment of children in detention in South Africa.

III. RELEVANT EXCERPTS FROM THE LATEST REPORT OF THE AD HOC WORKING GROUP OF EXPERTS ON SOUTHERN AFRICA

8. In its report to the Commission on Human Rights at its forty-seventh session (E/CN.4/1991/10), the Ad Hoc Working Group of Experts referred to the question of the treatment of children and adolescents as follows:

"Chapter V: Treatment of children and adolescents

"214. In the course of its field visit to the front-line States from 20 August to 12 September 1990, the Ad Hoc Working Group received testimonies from 64 witnesses, of whom 12 were adolescents under the age of 18. The Ad Hoc Working Group was distressed that all the adolescents alleged having been subjected to torture while in detention and had fled the country because, even after their release, they had been subjected to harassment and informal repression.

"215. At its 781st meeting, the Ad Hoc Working Group received testimony from the youngest witness, a 12-year-old Zulu student from the Natal region, presently in exile. He referred to the dissatisfaction of the children at the school he had been attending due to a shortage of textbooks and other facilities. On 20 July 1989, he stated, the police arrived at the school to disperse the students, who were demonstrating peacefully in protest and were demanding improvements. When they refused to return to their classrooms, the police intercepted some of them as

they were waiting for transportation to go back home and took them into custody. Two of those picked up were Bongani (13) and Chatrakumtat (14). They were taken by military truck to Seearswart Police Station where, according to the witness, they were blindfolded with wet rags and brutally tortured. The witness added that early in 1990 it was learned that they had allegedly died in prison after two months' detention.

"216. The witness informed the Ad Hoc Working Group that the next day, the students continued their boycott and the police returned to the school and again tried to disperse those present. When the students resisted, the police opened fire and shot three students to death. Their names were Siphiwe, Dumisay and Wiseman. The school was subsequently closed down, with the promise of better facilities and free education. However, when it was reopened at the beginning of 1990, there was no change. The students again protested, and the police were called in. They assaulted the students and detained most of them. The witness mentioned Sandile Dlomo (13), who was released in February 1990, and Phumlane Mhlango (15), who was detained on 6 March 1990 and was still reported to be in custody at the time the witness left South Africa.

"217. Detentions reportedly continued throughout the month of February 1990, when the witness himself was detained for two weeks. During this time, he was allegedly assaulted with rifle butts by as many as six policemen, punched and kicked. A few days after his release, his home was attacked by Inkatha vigilantes and petrol-bombed. He tried to return to school, but was refused admission to his previous school, as well as others to which he applied. The witness left South Africa on 13 March 1990 with the help of his brother.

"218. At its 782nd meeting, the Ad Hoc Working Group received testimony from a 17-year-old witness who described events during the state of emergency. Police harassment and pressure during school hours and restrictions on free movement under the emergency led the students to organize demonstrations and class boycotts. On one occasion in March 1986, the police had opened fire and shot at random at the students, causing heavy casualties. Many of the victims, including the witness, were taken to hospital where they were chained to their beds, under permanent guard. Three months later, the witness was taken to a police station and later tried, convicted and sentenced to five years' imprisonment, with a further period of three years' suspended sentence. The witness was 13 years old at that time. During part of his imprisonment, the witness said that he was kept with adult prisoners convicted of crimes. Adequate medical attention was not given to his wounds, and he was unable to sleep because a light was kept on for 24 hours per day. The witness served part of his 5-year sentence on Robben Island. In July 1989, he left South Africa because he was afraid that he might have to serve the further three years' suspended sentence if he ever happened to be accused of any other offence. The Ad Hoc Working Group noted the information from the media given in the ensuing paragraphs.

"219. It was reported in New Nation of 26 January and The Star of 6 and 22 February 1990 that 16-year-old Mbuyisela Nicholas Phiri from the Sonderwater squatter camp near Khutsong, Carletonville, Western Transvaal, had died at Welverdiend Police Station on 16 January 1990, only hours after having been detained. It was further reported that three persons had alleged in statements to lawyers of the law firm Valley, Waters & Mthembu, that they had heard Phiri's screams as he was being tortured. They claimed that they, too, had been tortured while in custody and described the tortures to which they had been subjected. Phiri's mother, it was reported, did not recognize her son when asked to identify him and found his face swollen, with blood on his mouth. His clothes had been removed from his left shoulder.

"220. On 9 March 1990, it was reported in The Star that Mr. Thomas Tshabalala and Mr. Pule "Mac" Mothupi, who had claimed to have heard Phiri being tortured, had been shot dead on 4 March 1990. Although police claimed that they had been fatally wounded in separate incidents of unrest, lawyers quoting statements made to them by Carleton residents, reported that there had been no unrest at the time of the shooting.

"221. The New Nation of 5 February and The Star of 6 February 1990 reported that, according to Durban lawyer Miss Linda Zama, Michael Zungu, a member of the South African Youth Congress (SAYCO), had died after being detained and brutally assaulted by police on 29 January 1990. She alleged that Zungu had gone to the Maghibonisane Junior Secondary School to claim back his registration fees, paid earlier. After an exchange of words with the principal, who did not believe that Zungu had his family's approval to claim the funds, police were called in. Zungu, who was allegedly handcuffed and assaulted, was unconscious when placed in a police van. Miss Zama was further reported to have said that when family members took food to him later in the day, they were told that he had been found hanged by his shoelaces.

"222. The Star of 16 March 1990 reported that, according to a human rights brief on unrest, 12-year-old Vusi Masina of the Eastern Transvaal was among many detained.

"223. It was reported in South of 26 April 1990 that a 15-year-old boy had been held for three days in a police cell without being able to contact his family. It was alleged that he had been assaulted at the Mmare Police Station. It was further reported that a relative, who had come to the police station to see someone else, recognized the boy and noticed that he was covered in blood. The boy's mother reported that when he was brought to court after three days in custody, his face was swollen and still covered in blood.

"224. An article in New Nation of 27 April 1990 reported that 200 persons detained in Bushbuckridge on 23 April 1990 included children under the age of 10. It was further reported that the police action had been a crime prevention operation, as also reported by the Human Rights Commission.

"225. The Star of 1 May 1990 reported that Mr. Mohamed Motala, a lawyer, estimated that about 50 school children had been among persons arrested in April 1990 while travelling back from a funeral in Schweizer-Reneke in Western Transvaal. The children were reportedly in detention at Klerksdorp. Among them was Nicodemus Motsikare, a pupil at Memebong High School.

"226. It was reported in The Star of 19 July 1990 that Eugene Mbulwane (15) had died at Leratong hospital on 13 July 1990. It was further reported that a witness, whose name was withheld for his protection, had been present when Mbulwane was tortured and beaten unconscious at Welverdiend Police Station near Carletonville. The witness claimed also to have been among those tortured and beaten on that occasion. New Nation of 20 July 1990 reported that Elias Letimele, detained along with Mbulwane, claimed that the dead boy had been left unattended for at least nine hours on the cell floor of Khutsong Police Station where he had been transferred after being brutally assaulted at Welverdiend Police Station. It was reported that his clothes were torn and blood-stained and that he had difficulty in breathing. Letimele and another youth reportedly helped to carry Mbulwane to the reception office, and from there an ambulance took him to hospital."